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Fax (713) 939-9508Patents, Trademarks,  
Copyrights, Licensing,  
Trade Dress, Trade Secrets,  
Unfair Competition,  
Technology Development,  
Computer and Internet Law**Date:** January 18, 2006**To:** Examiner Joseph A. Fischetti Art Unit: 3627  
USPTO**Facsimile:** 571-273-8300**From:** Streets & Steele  
Debi LabaySerial No.: 09/963,715  
Our Deposit Account Log No.: 0117  
Confirmation No.: 9288  
Attorney Dkt: AUS920010319US1  
(IBM-0013)**Pages:** 37 (with cover)**Message:**CERTIFICATE OF TRANSMISSION  
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**Attached please find the following documents for the above referenced patent application:**

- 1) Transmittal Form;
- 2) Response to the Notification of Non-Compliant Appeal Brief;
- 3) Copy of the Notification of Non-Compliant Appeal Brief; and
- 4) Replacement Appeal Brief [32 pages].

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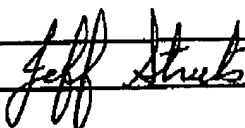
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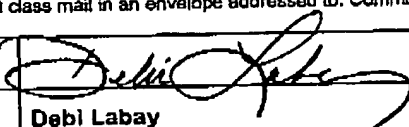
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/863,715	
	Filing Date	September 26, 2001	
	First Named Inventor	Rabindranath Dutta	
	Art Unit	3627	
	Examiner Name	Joseph A. Fischetti	
Total Number of Pages In This Submission	36	Attorney Docket Number	AUS920010319US1

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
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<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	STREETS & STEELE	
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Printed name	Jeffrey L. Streets	
Date	January 18, 2006	Reg. No. 37,453

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Typed or printed name	Debi Labay
Date	January 18, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Patent  
Attorney Docket No.: AUS920010319US1  
(IBM-0013)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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Application No. : 09/963,715  
Applicant : Rabindranath Dutta  
Filed : September 26, 2001  
TC/A.U. : 3627  
Examiner : Joseph A. Fischetti  
Docket No. : AUS920010319US1  
Customer No. : 24945

Confirmation No.: 9288

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**RESPONSE TO NOTICE OF NON-COMPLIANT  
APPEAL BRIEF MAILED DECEMBER 22, 2005**

Sir:

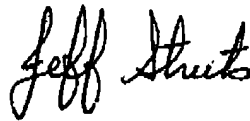
Applicant files this Response to Notice of Non-Compliant Appeal Brief mailed on December 22, 2005, and having a one-month period for response set to expire on January 22, 2006 The notice (copy enclosed) indicates that the brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal and that the summary must only be directed to independent claims on appeal.

Enclosed for filing in the above-referenced application is a replacement Appeal Brief.

Patent  
Attorney Docket No.: AUS920010319US1  
(IBM-0013)

In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/IBM-0013 of the firm of the below-signed attorney in the amount of any necessary fee.

Respectfully submitted,



Jeffrey L. Streets  
Attorney for Applicant  
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**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/963,715

Applicant(s)

DUTTA ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3627

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 12 October 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

No Prayer for relief is needed. Also, Summary must only be directed to independent claims on appeal.

**JOSEPH A. FISCHETTI**  
**PRIMARY EXAMINER**  
 Joseph A. Fischetti  
 Primary Examiner  
 Art Unit: 3627

Appeal Brief  
Dkt. No.: AUS920010319US1  
(IBM/0013)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

IN RE APPLICATION OF:  
Rabindranath Dutta, *et al.*

SERIAL NO: 09/963,715

CONFIRMATION NO.: 9288

**FILED: September 26, 2001**

**FOR: Method and System for Parent  
Controlled E-Commerce**

57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042 1043 1044 1045 1046 1047 1048 1049 1050 1051 1052 1053 1054 1055 1056 1057 1058 1059 1060 1061 1062 1063 1064 1065 1066 1067 1068 1069 1070 1071 1072

EXAMINER: Joseph A. Fischetti

GROUP ART UNIT: 3627

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# APPEAL BRIEF

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Appeal Brief  
Dkt. No.: AUS920010319US1  
(IBM/0013)

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Dkt. No.: AUS920010319US1  
(IBM/0013)

### **APPEAL BRIEF**

Appellant timely filed a Notice of Appeal to this Board on August 11, 2005 appealing the decision of the Examiner in the Final Office Action dated May 11, 2005 for the above captioned application. Appellant hereby submits this Appeal Brief pursuant to 37 C.F.R. 41.37.

#### **(1) REAL PARTY IN INTEREST**

The real party of interest in this action is International Business Machines Corporation, the recorded assignee of the entire right, title and interest in and to the patent application now under appeal before this Board. International Business Machines Corporation is a corporation of the State of New York, having a place of business at Armonk, New York 10504.

#### **(2) RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences known to Appellants, Appellants' legal representative, or Assignee that will affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal.

#### **(3) STATUS OF THE CLAIMS**

The status of all claims in the application under appeal is as follows: claims 1-14 and 16-38 are pending in the application. Claims 1-14 and claims 16-25 stand rejected and are under appeal. Claims 15 and 26-38 stand withdrawn from consideration.

#### **(4) STATUS OF AMENDMENTS**

No amendments to the claims were requested subsequent to the Final Office Action dated May 11, 2005 from which this appeal is taken.

#### **(5) SUMMARY OF CLAIMED SUBJECT MATTER**

Independent claim 1 is a method for a server to obtain parent authorization of minor-proposed e-transactions. The method overcomes barriers that prevent expanded e-commerce

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with minors, including enabling a parent to freely and conveniently review information describing an e-transaction proposed by a minor and selectively authorizing or rejecting all or part of a minor's proposed electronic transaction. (Specification, p. 4, lines 5-16). "E-commerce" means purchasing goods or services by a purchaser using the internet ("e-purchaser") and typically involves the submission of an e-purchaser's name, credit card number and credit card expiration date in order to complete a transaction using the internet, which is an "e-transaction." (Specification, p. 1, lines 24-29).

The claimed invention includes electronically receiving an e-transaction proposal from a minor. (Specification, p. 12, lines 16-20). The server may then automatically create and electronically transmit a first message to the parent, the message describing the proposed e-transaction and soliciting the parent's authorization of the proposed e-transaction. (Specification, p. 14, lines 12-17). The parent may authorize the entire proposed e-transaction or may selectively cancel objectionable items to authorize only a portion of the proposed e-transaction. (Specification, FIG. 7, states 420, 425 and 465). The message to the authorizing party may be made as an e-mail to an address provided by the minor or to an email address previously supplied by the authorizing party and stored in a database. (Specification, p. 14, lines 15-20). In response to the first message sent to the parent, the server may electronically receive a reply message from the parent authorizing an e-transaction and further providing e-transaction instructions. (Specification, FIG. 7, states 465 and 425). After receiving the e-transaction authorization and instructions from the parent, the server may automatically execute the e-transaction instructions by completing the e-transaction and providing purchase confirmation and delivery details to the minor. (Specification, p. 12, lines 25-30).

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Independent claim 16 is a computer program product including instructions embodied on a computer readable medium. The instructions perform the method steps described with respect to claim 1, above.

**(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

a. Claims 1, 2, 4, 5, 13, 16, 17, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.*

b. Claims 1, 6-9 and 21-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.* and further in view of U.S. Patent No. 6,674,368 issued to Hawkins, *et al.*

c. Claims 1, 10-12, 14, 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.* and further in view of U.S. Patent No. 6,742,141 issued to Miller.

d. Claims 1, 3 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.* and further in view of U.S. Patent No. 6,052,675 issued to Checchio.

**(7) ARGUMENT**

a. Claims 1, 2, 4, 5, 13, 16, 17, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.*

(1) Review of the cited prior art. Lotvin discloses a method and apparatus for motivating children to devote more time to educational and cultural enrichment by awarding

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them with points whenever they complete educational tasks. (Lotvin, Abstract). These points can then be redeemed towards the purchase of goods and services offered through the system by its commercial participants. *Id.* Parents purchase the services of the provider by signing up for the service and by providing a credit card number to pay for the services on a monthly basis and also to pay for the selections made by the children for goods and services when they cash in their points. (Lotvin, col. 2, lines 24-30). Optionally, the parents may exclude certain categories of goods from being made available to the children when the children cash in their points. (Lotvin, col. 2, lines 39-42 and col. 7, lines 1-5). For example, the parents may indicate that toys of a violent nature are to be precluded. (Lotvin, col. 13, lines 50-51). When the child is ready to cash in his earned points, the system *provides a menu of purchasing choices* consistent with the number of points the child has earned, the spending limit set by the parent and the parental exclusion preferences. (Lotvin, col. 13, lines 45-52). The child makes his selections and the system processes the order. (Lotvin, col. 13, lines 55-67).

Blonder discloses an automated method for alerting a customer that a transaction is being initiated and for authorizing the transaction based upon a confirmation/approval by the customer. (Blonder, Abstract). Blonder discloses that a computer system database may send out an alert message over a two-way pager to a customer concerning a business transaction and that the customer can then approve the transaction by sending back an authorization code to the database. (Blonder, col. 9, lines 11-31). The system disclosed by Blonder is an automated authorization system that provides a database that can both receive the authorization code from the customer and compare the code to a stored authorization code to provide automatic authorization of a transaction. (Blonder, col. 15, lines 10-27). Blonder discloses the problems that result from an inability to quickly and efficiently inform the individual customer that his customer identifier

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(e.g., credit card, calling card, debit card, PIN, password, etc.) is being used in a transaction for a particular purpose and the inability of the customer to respond thereto in order to confirm or deny its use. (Blonder, col. 2, lines 55). Blonder discloses an automated method to solve this problem that includes informing the customer of the pending transaction and authorizing the transaction only in response to a customer confirmation. *Id.*

(2) Applicable law. A claimed invention is unpatentable if the differences between it and the prior art “are such that the subject matter *as a whole* would have been obvious at the time the invention was made to a person having ordinary skill in the art.” 35 U.S.C. 103(a) [emphasis added]. The ultimate determination of whether an invention is or is not obvious is a legal conclusion based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) objective evidence of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). As the Federal Circuit has stated, “Focusing on the obviousness of substitutions and differences instead of on the invention *as a whole* . . . was a legally improper way to simplify the difficult determination of obviousness.” *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1383 (Fed. Cir. 1986) [emphasis added].

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

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An additional requirement for providing a *prima facie* case of obviousness is that the Examiner must provide a basis for combining or modifying the cited references. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990).

In the case *In re Rouffet*, 149 F.3d 1350 (Fed. Cir. 1998), the Court states:

When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references. Although the suggestion to combine references may flow from the nature of the problem, the suggestion more often comes from the teachings of the pertinent references or from the ordinary knowledge of those skilled in the art that certain references are of special importance in a particular field. Therefore, when determining the patentability of a claimed invention which combines two known elements, the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.

*Id.* at 1356 [citations omitted].

In the case *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002), the Federal Circuit held:

When patentability turns on the question of obviousness, the search for and analysis of the prior art includes *evidence* relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness.

*Id.* at 1343, emphasis added.

The courts have recognized that most inventions are made up of elements that have already been discovered and utilized. It is the specific combination of these elements, however, that define the invention being claimed. For example, in the case *In re Kotzab*, 217 F.3d 1365 (Fed. Cir. 2000), the Court states:

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Most, if not all inventions arise from a combination of old elements . . . Thus, every element of a claimed invention may often be found in the prior art. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant.

*Id.* at 1395.

(3) The cited prior art fails to teach or suggest all the claim limitations of independent claims 1 and 16. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because neither one of the cited references teaches nor suggests that a reply message received from the parent includes *e-transaction instructions*. Applicant claims that the reply message must contain both an (1) authorization and (2) instructions. Furthermore, neither of the cited prior art references teach or suggest electronically receiving an e-transaction proposal from a minor.

Lotvin does not disclose sending any messages to the parent asking for either (1) authorization or (2) instructions concerning a pending e-transaction and therefore, there is no suggestion or teaching that the parent sends a return message. There are *no messages* being sent back by the parent before an e-transaction (*not* an e-transaction proposal) by the minor is executed including messages that (1) authorize the transaction and (2) provide further e-transaction instructions.

It is important to note that there is *no e-transaction proposal* sent by the minor in Lotvin because Lotvin discloses that the method displays a menu of pre-selected and approved purchases that the minor may select from. Therefore, the minor selects the choices and the result



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is not a "proposal" that must be approved, but is instead, the order of the minor for pre-selected and approved goods.

Furthermore, Lotvin discloses that both the authorization and any constraints to what the minor may purchase are already obtained before the minor makes any choices as to what to buy with the "points" he has earned. Only pre-arranged choices are provided for the minor to choose from. Lotvin discloses that the parent provides all required information when the parent signs the child up for the educational services. The parent provides a credit card number when the parent signs the child up for the educational services and provides a set amount that the child is allowed to spend on the prizes when the child cashes in his points. Lotvin further discloses that the parent may exclude certain toys or goods from the mix that is offered to the minor when the minor is ready to "spend" his points.

Blonder discloses sending a message to the parent asking for (1) authorization and receiving an authorization message back from the parent, in the form of a code, but does not teach or suggest that the parent send additional instructions back *with* the parent's authorization. Lotvin clearly points out that what is disclosed therein is an automatic *authorization* method; indeed, its title is Transaction Authorization and Alert System. (Blonder, Title) Blonder does not suggest or teach that this system may be expanded to receive *e-transaction instructions* in the authorization message received from the parent. Furthermore, the transaction request is not sent electronically *by the minor*, as claimed by Appellant, but is instead sent by the *retailer* in response to the minor attempting to purchase goods in the retail establishment.

Because neither of the cited prior art references suggest or teach that a response message from a parent include *both* a transaction authorization *and* an e-transaction instruction, and because neither of the cited prior art references suggest or teach that a server electronically

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receives (1) an e-transaction *proposal* (2) from a minor, a *prima facie* case of obviousness has not been presented. Appellant therefore respectfully requests that the Board find independent claims 1 and 16 presented on appeal to be patentable as well as, therefore, all other claims presented on appeal that depend therefrom.

(4) The cited prior art fails to teach or suggest all the claim limitations of claims 2 and 17. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because neither one of the cited references teaches nor suggests a server creating and sending an electronically transmittable third message notifying the minor of the parent's response to the proposed e-transaction.

The Examiner cites Blonder as suggesting or teaching this limitation as Blonder discloses that an authorization from the transaction processing center to the retailer, where the minor is waiting for the goods to be purchased, may be the third message if the retailer relays the message to the child. (Final Office Action, p. 3). However, such is not what Appellant claims.

Blonder discloses that what is sent back to the retailer is an *authorization code* that identifies the transaction and can thereby be used to verify that the authorization process was properly adhered to by the retailer. (Blonder, col. 12, lines 15-25). Typical reasons for denial include that the balance on the customer's account has exceeded its credit limit or that the customer has not responded to the request for authorization. *Id.*

Blonder does not disclose that the parent's response is sent electronically as a third message notifying the minor of the parent's response. At best, relaying the message to the child by the retailer would be a *fourth* message from the retailer to the minor and such message would not be sent electronically but would be spoken to the child. As Appellant pointed out above, neither of the prior art references teach or suggest that a server electronically receives an e-

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transaction proposal from a minor and here, neither prior art reference teaches or suggests the limitations of claims 2 and 17 - that the server creates and sends a third message notifying the minor of the parent's response to the proposed e-transaction. The third message cited by the Examiner only informs the retailer that the credit card issuer has approved the transaction - not the minor.

Blonder does not disclose that the retailer even knows that the parents have or have not been contacted. Therefore, at best, Blonder discloses that the retailer can tell the minor that the transaction was or was not approved by the credit card company, but the retailer cannot tell the minor (1) that the parents were contacted or (2) that the parents did or did not approve the transaction. Such information is simply not provided in the authorization code provided to the retailer by the credit card issuer.

Because neither of the cited prior art references suggest or teach that the server creates and sends an electronically transmittable third message notifying the minor of the parent's response, a *prima facie* case of obviousness has not been presented. Appellant therefore respectfully requests that the Board find claims 2 and 17 presented on appeal to be patentable.

(5) No evidence has been provided for a teaching, motivation or suggestion to select and combine the cited references. Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented because there has been no evidence provided relevant to the finding of whether there is a teaching, motivation or suggestion to select and combine the references. The Examiner has stated that it would be obvious to modify the method of Lotvin to include the Blonder process because this would provide a more flexible method in that a case by case approval can be taken of products purchased as opposed to the more rigid pre-selection of certain products by Lotvin. (Final Office Action, p. 3).

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As the *Roffet* Court has taught, "Although the suggestion to combine references may flow from the nature of the problem, the suggestion more often comes from the teachings of the pertinent references or from the ordinary knowledge of those skilled in the art that certain references are of special importance in a particular field." *In re Rouffet*, 149 F.3d at 1356.

Appellant respectfully asserts that there is no motivation to combine the cited references. First, addressing the first *Rouffet* prong, there is no evidence that the nature of the problem to be solved provides any evidence of a motivation to combine these references. Each of the references attempts to solve a different problem. *Blonder* addresses the problem of credit card fraud and provides a method for automatically obtaining authorization for a credit card transaction. *Lotvin* attempts to solve the problem of how to increase the educational and cultural level of children. Neither reference suggests or teaches a solution to the problem of how to allow minors to fully but safely participate in e-commerce transactions, which is the problem sought to be solved by Applicant.

Addressing the second *Rouffet* prong, there is no suggestion from the cited prior art that the references should be combined. Neither of the prior art references address the subject of minors using the internet to buy goods and services. *Blonder* only discloses minors using "brick and mortar" stores, where their status as a minor is determined only from sight by the retailer and the system seeking authorization does not know whether a minor or an adult is seeking to purchase goods or services. *Lotvin* only discloses purchases being made on the website of the educational services provider with earned "points" from "appropriate menus presented to the child offering goods and services that may be optionally based on the parent's preferences." (*Lotvin*, col. 7, lines 1-3). Therefore, there is no suggestion from the prior art that the reference should be combined.

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The third *Rouffet* prong provides that the motivation to combine references may come from the ordinary knowledge of those skilled in the art that certain references are of special importance in a particular field. Certainly there has been no evidence provided showing that the cited prior art references are of special importance in a particular field.

Therefore, because there has been no evidence presented showing the motivation to combine the cited references, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Appellant therefore requests that the Board find the claims presented on appeal to be patentable.

b. Claims 1, 6-9 and 21-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, et al. in view of U.S. Patent No. 5,708,422 issued to Blonder, et al and further in view of U.S. Patent No. 6,674,368 issued to Hawkins, et al.

(1) Review of the cited prior art. Hawkins discloses methods and apparatus for tracking the location of assets and persons. (Hawkins, Abstract). Position information is provided to a central monitoring station aperiodically. *Id.* Hawkins discloses the need to provide improved methods and apparatus for tracking criminals and goods in transit. (Hawkins, columns 1 and 2). Alerts may be sent out by email, pop-ups, facsimile message and pagers depending upon the level of alert required. (Hawkins, col. 12, lines 12-31). Contact addresses and types of notifications for given alerts may be determined by the authorized user. *Id.* The authorized user is the person receiving the alerts. (Hawkins, col. 23, lines 53-54). A high level alert may be triggered by the movement of a criminal offender and a low level alert may be assigned for a violation associated with a child leaving a school yard. (Hawkins, col. 16, lines 57-67).

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(2) The cited prior art fails to teach or suggest all the claim limitations of claims 6-9 and 21-24. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because none of the three cited references teaches nor suggests sending an email to a parent that describes the e-transaction proposal and solicits the parent to authorize an e-transaction that comprises at least a part of the e-transaction proposal.

The Examiner admits that neither Lotvin nor Blonder teach or suggest the limitations of claims 6-9 and 21-24 and therefore, the Examiner cites Hawkins for those limitations. (Final Office Action, p. 4). However, Hawkins merely discloses that an email may be sent to a parent to alert the parent that a child has left a school yard. The triggering event for sending an email to a parent in Hawkins is that a child left a school yard, not a proposed e-transaction. The content of the email message could not be more different and the events triggering the email messages could not be more different between Hawkins and Appellant's claimed invention.

Therefore, because the cited prior art references fail to teach or suggest sending an email to a parent that describes the e-transaction proposal and solicits the parent to authorize an e-transaction that comprises at least a part of the e-transaction proposal, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Therefore, Appellant respectfully requests the Board to find that claims 6-9 and 21-24 presented on appeal are patentable.

(3) The cited prior art fails to teach or suggest all the claim limitations of claim 7. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because none of the three cited references teaches nor suggests that the parent's e-mail address is provided by the minor along with the proposed e-transaction.

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The Examiner admits that neither Lotvin nor Blonder teach or suggest the limitations of claim 7 and therefore, the Examiner cites Hawkins for those limitations. (Final Office Action, p. 4). However, Hawkins does not teach that the minor provide the e-mail address along with the proposed e-transaction. Indeed, Hawkins only discloses that the email address is provided by the authorized user. None of the cited prior art references teach or suggest that the email address is provided by the minor, a limitation claimed by Appellant.

Therefore, because the cited prior art references fail to teach or suggest that the parent's e-mail address is provided by the minor along with the proposed e-transaction, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Therefore, Appellant respectfully requests the Board to find that claim 7 presented on appeal is patentable.

(4) No evidence has been provided for a teaching, motivation or suggestion to select and combine the cited references. Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented because there has been no evidence provided relevant to the finding of whether there is a teaching, motivation or suggestion to select and combine the references. The Examiner has stated that it would be obvious to modify the Blonder and hence Lotvin to use email instead of paging because email is more expeditious.

Appellant has already provided an analysis of the lack of evidence for combining Lotvin and Blonder. Continuing now with Hawkins and first, addressing the first *Rouffet* prong, there is no evidence that the nature of the problem sought to be solved provides any evidence of a motivation to combine these references. Hawkins addresses the problem of tracking people and shipments of goods and does not address at all the concerns of (1) increasing the educational and cultural level of children (Lotvin), (2) decreasing the level of credit card fraud by providing a method of automatically obtaining authorization for a credit card transaction (Blonder) or (3)

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how to allow minors to fully but safely participate in e-commerce transactions, which is the problem sought to be solved by Applicant.

Addressing the second *Rouffet* prong, there is no suggestion from the cited prior art that the references should be combined. None of the prior art references address the subject of minors using the internet to buy goods and services.

The third *Rouffet* prong provides that the motivation to combine references may come from the ordinary knowledge of those skilled in the art that certain references are of special importance in a particular field. Certainly there has been no evidence provided showing that the cited prior art references are of special importance in a particular field.

Therefore, because there has been no evidence presented showing the motivation to combine the cited references, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Appellant therefore requests that the Board find claims 6-9 and 21-24 presented on appeal to be patentable.

(5) Non-analogous art cannot be used to establish obviousness. Appellant respectfully asserts that Hawkins is non-analogous art and therefore may not be combined with other prior art to establish obviousness. 35 U.S.C. § 103 requires that obviousness be determined on the basis of whether at the time the invention was made, a person of ordinary skill in the art to which the subject matter pertains would have found the claimed invention as a whole obvious. In the case *In re Wood*, 599 F.2d 1032 (CCPA 1979), the Court stated:

The determination that a reference is from a nonanalogous art is therefore twofold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved.



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Considering the first prong of *Wood*, Appellant respectfully asserts that Hawkins is not even marginally within the field of the inventor's endeavor. Appellant's field of endeavor is the furtherance of the use of e-commerce by minors. Hawkins field of endeavor is, as stated therein, tracking the geographic position of assets. (Hawkins, col. 1, lines 14-15).

Considering, then, the second prong of *Wood*, Appellant respectfully asserts that Hawkins is not reasonably pertinent to the particular problem with which the inventor was involved. As discussed, *supra*, Hawkins addresses the problem of tracking people and shipments of goods and does not address at all the concerns of how to allow minors to fully but safely participate in e-commerce transactions, which is the problem sought to be solved by Applicant.

Therefore, because Hawkins is nonanalogous art and cannot be used to support an obviousness rejection, Appellant respectfully requests that the Board finds that claims 6-9 and 21-24 presented on appeal are patentable.

c. Claims 1, 10-12, 14, 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, et al. in view of U.S. Patent No. 5,708,422 issued to Blonder, et al and further in view of U.S. Patent No. 6,742,141 issued to Miller.

(1) Review of the cited prior art. Miller provides a solution to the problem of repeated computer system and software failure or instability. (Miller, Abstract). The solution disclosed by Miller is a database that contains entries with executable code that can make use of these services in order to monitor, disclose and solve specific problems. *Id.* More specifically, in FIG. 12C, Miller discloses a user interface of the customer screen where the customer can use a checkbox to enable the reporting of minor problems with the software and can use another checkbox to enable the reporting of all problems. (Miller, col. 15, lines 15-21).

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(2) The cited prior art fails to teach or suggest all the claim limitations of claims 11-12 and 25. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because none of the three cited references teaches nor suggests providing a list of each item sought by the minor in the e-transaction proposal and allowing the parent to selectively reject one or more items on the list, wherein the e-transaction instructions of the reply message comprise the selective rejections.

The Examiner cites Miller for disclosing a clickable option menu that allows a user to select options. Miller allows a customer to use a checkbox to enable the reporting of minor problems with the software and can use another check box to enable the reporting of all problems. However, that is not what Appellant claims. Appellant claims:

- a. providing a list of each item sought by the minor in the e-transaction proposal;
- b. allowing the parent to selectively reject one or more items on the list; and
- c. wherein the e-transaction instructions of the reply message comprise the selective rejections.

No reference has been cited that suggests or claims these three claimed limitations. Therefore, because the cited prior art references fail to teach or suggest these three claimed limitations, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Therefore, Appellant respectfully requests the Board to find that claims 11-12 and 25 presented on appeal are patentable.

d. Claims 1, 3 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, et al. in view of U.S. Patent No. 5,708,422 issued to Blonder, et al and further in view of U.S. Patent No. 6,052,675 issued to Checchio.

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(1) Review of the cited prior art. Checchio provides a method and apparatus for pre-authorizing transactions for a credit card. (Checchio, Abstract). Linked with a credit card number in a database is a Personal Identification Code (PIC). *Id.* Whenever a consumer wishes to use the credit card, the consumer must provide both the credit card number and the PIC or the authorization for use of the credit card will not be granted by the credit card company. (Checchio, col. 4, lines 40-51). The owner of the credit card may be issued several PIC's, each having its own spending limit so that children may be given the credit card but are limited by the amount they can charge because of the PIC given to each of the children. (Checchio, col. 6, lines 41-62).

(2) The cited prior art fails to teach or suggest all the claim limitations of claims 3 and 18. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because none of the three cited references teaches nor suggests that the reply message from the parent comprises a credit card number for electronically funding the e-transaction.

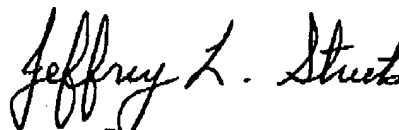
Checchio does not disclose providing an e-transaction instruction in a responding message to charge goods or services to a particular credit card that is supplied in the message. Checchio merely discloses that a PIC number may be associated with a given credit card so that when the credit card is used, the PIC must be used with the credit card for authorization, much like the common use of a debit card. The credit card number must be supplied with the PIC. In other words, very similar to the common use of a debit card, when a customer presents the debit card for use, the customer must enter a Personal Identification Number (PIN) before the transaction can be authorized by the debit card issuing bank. This is not what Applicant claims.

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Therefore, because the cited prior art references fail to teach or suggest that the reply message from the parent comprises a credit card number for electronically funding the e-transaction, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Therefore, Appellant respectfully requests the Board to find that claims 3 and 18 presented on appeal are patentable.

Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented for the claims presented on appeal and therefore respectfully request that this Board find that the claims presented on appeal are patentable.

Respectfully submitted,



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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
 BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

IN RE APPLICATION OF:  
 Rabindranath Dutta, *et al.*

SERIAL NO: 09/963,715

CONFIRMATION NO.: 9288

FILED: September 26, 2001

FOR: Method and System for Parent  
 Controlled E-Commerce

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EXAMINER: Joseph A. Fischetti

GROUP ART UNIT: 3627

**APPENDIX IN SUPPORT OF APPELLANT'S APPEAL BRIEF**

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(8) CLAIMS APPENDIX

What is claimed is:

1. (previously presented) A method for a server to obtain parent authorization of minor-proposed e-transactions comprising:
  - electronically receiving an e-transaction proposal from the minor;
  - automatically creating and electronically transmitting a first message to the parent, the message describing the e-transaction proposal and soliciting the parent to authorize an e-transaction that comprises at least a part of the e-transaction proposal;
  - electronically receiving a reply message from the parent authorizing the e-transaction and providing e-transaction instructions; and
  - automatically executing the e-transaction instructions.
2. (previously presented) The method of claim 1, further comprising:
  - creating and sending an electronically transmittable third message notifying the minor of the parent's response to the proposed e-transaction.
3. (previously presented) The method of claim 1, wherein the e-transaction instructions comprise a credit card number for electronically funding the e-transaction.
4. (previously presented) The method of claim 1, wherein the step of electronically receiving a reply message from the parent authorizing the e-transaction comprises:
  - receiving a server-verifiable transaction authorization code.
5. (previously presented) The method of claim 5, wherein the authorization code is a transaction specific code.
6. (original) The method of claim 1, wherein the first message is an e-mail addressed to the parent's e-mail address.

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7. (original) The method of claim 1, wherein the parent's e-mail address is provided by the minor along with the proposed e-transaction.
8. (original) The method of claim 1, wherein the parent's e-mail address is available from an accessible database.
9. (original) The method of claim 8, wherein the parent's e-mail address is provided by the parent prior to the server's receipt of the minor's proposed e-transaction.
10. (previously presented) The method of claim 1, wherein the first message to the parent provides options for the parent to approve the e-transaction proposal and to reject the e-transaction proposal.
11. (previously presented) The method of claim 1, further comprising:
  - providing in the first message a list of each item sought by the minor in the e-transaction proposal; and
  - allowing the parent to selectively reject one or more of the items on the list, wherein the e-transaction instructions of the reply message comprise the selective rejection.
12. (original) The method of claim 1, wherein the first message comprises clickable options for providing the parent's reasons for rejecting items from the proposed e-transaction.
13. (previously presented) The methods of claim 1, wherein the e-transaction proposal involves the purchase of goods, and wherein the first e- message comprises information related to content of the goods involved in the e-transaction proposal.
14. (original) The method of claim 1, wherein the first messages provide clickable hyperlinks enabling the parent to access reviews by others of the goods sought in the e-transaction proposal.

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15. (withdrawn) A method for a server to provide a parent with control over an e-transaction proposed by a minor comprising:

- electronically receiving a proposed e-transaction from a minor;
- receiving an e-mail address of the minor's parent;
- creating an electronically transmittable message addressed to the parent's e-mail address;

- electronically providing the parent with a description of the proposed e-transaction;

- electronically receiving a reply message from the parent comprising the parent's instructions regarding the proposed e-transaction;

- disposing of the proposed e-transaction in accordance with the parent's instructions; and

- electronically notifying the minor of the parent's instructions regarding the proposed e-transaction proposed by the minor.

16. (previously presented) A computer program product including instructions embodied on a computer readable medium, the instructions comprising:

- instructions for receiving an e-transaction proposal from a minor;

- instructions for automatically creating and electronically transmitting a first message to a parent, the message describing the e-transaction proposal and soliciting the parent to authorize an e-transaction that comprises at least a part of the proposed e-transaction;

- instructions for receiving a reply message from the parent authorizing the e-transaction and providing e-transaction instructions; and

- instructions for executing the e-transaction instructions.

17. (original) The computer program product of claim 16, further comprising:

- instructions for creating and sending an electronically transmittable third message notifying the minor of the parent's response to the proposed e-transaction.



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18. (previously presented) The computer program product of claim 16, wherein the e-transaction instructions comprise a credit card number for electronically funding the e-transaction.
19. (previously presented) The computer program product of claim 16, wherein the instructions for receiving a reply message from the parent comprises:  
receiving a server-verifiable transaction authorization code.
20. (previously presented) The computer program product of claim 19, wherein the authorization code is a transaction specific code.
21. (original) The computer program product of claim 16, wherein the first message is an e-mail message addressed to the parent's e-mail address.
22. (original) The computer program product of claim 21, wherein the parent's e-mail address is provided by the minor along with the proposed e-transaction.
23. (original) The computer program product of claim 21, wherein the parent's e-mail address is available from an accessible database.
24. (original) The computer program product of claim 23, wherein the parent's e-mail address is provided by the parent prior to the server's receipt of the minor's proposed e-transaction.
25. (previously presented) The computer program product of claim 21, further comprising:  
instructions for providing in the first message a list of each item sought by the minor in the e-transaction proposal; and  
instructions for allowing the parent to selectively reject one or more of the items of the e-transaction proposal, wherein the e-transaction instructions of the reply message comprise the selective rejection.

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26. (withdrawn) A computer system for obtaining parent authorization of minor-proposed e-transactions comprising:

first receiving means for electronically receiving an e-transaction proposal from the minor;

messaging means for automatically creating and electronically transmitting a first message to the parent, wherein the message describes the e-transaction proposal and solicits the parent to enter a transaction authorization code to enable consummation of the proposed e-transaction;

second receiving means for electronically receiving a reply message from the parent providing a transaction authorization code and e-transaction instructions; and

executing instructions for automatically executing the e-transaction instructions.

27. (withdrawn) The computer system of claim 26, further comprising:

notification means for creating and sending an electronically transmittable third message notifying the minor of the parent's response to the proposed e-transaction.

28. (withdrawn) The computer system of claim 26, wherein the reply message comprises a credit card number for electronically funding the minor's proposed e-transaction.

29. (withdrawn) The computer system of claim 26, wherein the reply message comprises a server-verifiable transaction authorization code.

30. (withdrawn) The computer system of claim 26, wherein the reply message comprises a transaction specific code.

31. (withdrawn) The computer system of claim 26, wherein the first message is an e-mail message addressed to the parent's e-mail address.

32. (withdrawn) The computer system of claim 26, further comprising:

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submission means for allowing the minor to submit the parent's e-mail address along with the proposed e-transaction.

33. (withdrawn) The computer system of claim 26, wherein the parent's e-mail address is available from an accessible database.

34. (withdrawn) The computer system of claim 33, further comprising:  
submission means for allowing the parent to submit the parent's e-mail address prior to receiving the minor's proposed e-transaction.

35. (withdrawn) The computer system of claim 26, further comprising:  
approval means for allowing the parent to approve or reject the proposed e-transaction through clickable options provided in the first message.

36. (withdrawn) The computer system of claim 26, further comprising:  
approval means for allowing the parent to approve or reject individual items of the proposed e-transaction through clickable options provided in the first message.

37. (withdrawn) The computer system of claim 26, wherein the proposed e-transaction involves the purchase of goods, and wherein the first e-mail message comprises information related to content of the goods involved in the proposed e-transaction.

38. (withdrawn) The computer system of claim 26, further comprising:  
research means for allowing the parent to research reviews of the good sought in the e-transaction proposal through clickable hyperlinks provided in the first message.

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**(9) EVIDENCE APPENDIX**

NONE

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**(10) RELATED PROCEEDINGS APPENDIX**

NONE